



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 12848375

Date: JULY 14, 2021

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, an architectural engineer, seeks second preference immigrant classification as a member of the professions holding an advanced degree, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. *See* Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2).

The Director of the Nebraska Service Center denied the petition, concluding that the Petitioner qualified for classification as a member of the professions holding an advanced degree but that the Petitioner had not established that a waiver of the required job offer, and thus of the labor certification, would be in the national interest. Specifically, the Director stated, “[b]ased on the evidence submitted[,] the [P]etitioner possesses a [m]aster’s degree in architecture. Therefore, the [P]etitioner has establishes [*sic*] she is a member of the profession [*sic*] holding an advance [*sic*] degree.” For the reasons discussed below, we withdraw that conclusion.

In relevant part, the record contains a copy of a “diploma with honours” for “the qualification of a teacher of visual art and drawing majoring in ‘visual art and drawing’” awarded to the Petitioner in 2000 by the [redacted] College, and an accompanying English translation. The translation indicates that the diploma is “a state document confirming secondary vocational education” at a “basic level.” The record also contains a copy of a “diploma with honours” for “the qualification of an architect majoring in ‘architecture’” awarded to the Petitioner in 2006 by the [redacted] Architectural Institute, and an accompanying English translation. Similar to the other translation, this translation indicates that the 2006 diploma is “a state document confirming higher education.” However, the 2006 diploma does not indicate the corresponding academic level. The record also contains a copy of a “certificate of short-term professional advancement in the course ‘Construction Design Manager’” issued to the Petitioner in 2014 by the [redacted] Management School, and a similar certificate issued by the [redacted] Institute of Architecture to the Petitioner for “short-term training” she underwent between “March 22, 2017[,] until April 21, 2017,” both with accompanying translations.

In response to the Director’s request for evidence (RFE), the Petitioner submitted an opinion letter from the president of [redacted] which states, in relevant part, “[b]ased on provided to

me documents and information, [the Petitioner] received her advanced degree in [a]rchitecture from one of the most preeminent educational institutions in Russia, the [redacted] Institute of Architecture (State Academy) in 2006.”¹ The opinion letter does not indicate that the Petitioner’s 2000 diploma is equivalent to a U.S. bachelor’s degree, nor is the letter “a credentials evaluation performed by an independent credentials evaluator who has provided a credible, logical, and well-documented case for such an equivalency determination.” *See 6 USCIS Policy Manual* E.9, <https://www.uscis.gov/policy-manual>. The opinion letter also is not, in the alternative, “a comparable evaluation performed by a school official who has the authority to make such determinations and is acting in his or her official capacity with the educational institution.”² *See id.*

Accordingly, the record does not establish either that the Petitioner’s 2000 degree is equivalent to a U.S. bachelor’s degree or that the Petitioner’s 2006 degree is equivalent to an advanced U.S. degree, in order for the Petitioner to qualify as a member of the professions holding an advanced degree. *See 8 C.F.R. § 204.5(k)(2)* (defining “advanced degree” for the purposes of a Form I-140, Immigrant Petition for Alien Worker, as “any United States academic or professional degree or a foreign *equivalent* degree above that of a baccalaureate” (emphasis added)). Specifically, the record does not support the Director’s conclusion that “the [P]etitioner possesses a [m]aster’s degree in architecture.”

While we conduct *de novo* review on appeal, we conclude that a remand is warranted in this case because the Director’s decision is insufficient for review. As presently constituted, the record does not establish whether the Petitioner qualifies as a member of the professions holding an advanced degree. *See* section 203(b)(2) of the Act.³

Accordingly, the matter will be remanded to the Director to conduct a final merits determination of the advanced degree issue and enter a new decision. The Director may request any additional evidence considered pertinent to the new determination and any other issue. As such, we express no opinion regarding the ultimate resolution of this case on remand.

ORDER: The decision of the Director is withdrawn. The matter is remanded for further proceedings consistent with the foregoing analysis and entry of a new decision.

¹ Also in response to the RFE, the Petitioner submitted a letter in which she informs that “from October 2017 to January 2020, I rendered my volunteer services to [redacted] [sic].” The prior working relationship between the Petitioner and the opinion letter author precludes the letter from being an independent evaluation of her credentials.

² In any event, “[a]ny educational equivalency evaluation performed by a credentials evaluator or school official is solely advisory in nature; the final determination continues to rest with the [adjudicating USCIS] officer.” *See 6 USCIS Policy Manual* E.9, <https://www.uscis.gov/policy-manual>.

³ We further note that the record—both at the time of filing and at the time of the Director’s decision—does not contain sufficient information regarding the proposed endeavor the Petitioner would pursue in the United States to meaningfully analyze whether any of the *Dhanasar* prongs have been satisfied. *See Matter of Dhanasar*, 26 I&N Dec. 884, 889-90 (AAO 2016); *see also* 8 C.F.R. § 103.2(b)(1) (requiring a petitioner to “establish that he or she is eligible for the requested benefit at the time of filing the benefit request and . . . continue to be eligible through adjudication”).